

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16556
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting property tax reduction benefits for 2001. This matter was submitted for decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision thereon.

The amount of property tax reduction benefits depends on the household income--the greater the income, the smaller the benefit. On May 3, 2002, the staff issued a Notice of Deficiency Determination to [Redacted] proposing repayment of a portion of his Idaho property tax reduction benefits for year 2001. Additional income had been identified that was not shown in the application. The petitioner's representative protested on behalf of the petitioner.

The staff routinely audits the applications that have been submitted to the county where the petitioners live. During this process, the staff examined the petitioner's application and identified income that had not been included when the petitioner submitted his application on or about March 4, 2001.

Idaho Code § 63-708 provides for recovery of amounts paid in error as follows:

63-708. RECOVERY OF ERRONEOUS CLAIMS. Within three (3) years of payment, the state tax commission may recover any erroneous or incorrect payment made under sections 63-701 through 63-710, Idaho Code, from any "claimant" as defined in section 63-701(1), Idaho Code. The deficiency determination, collection, and enforcement procedures provided by the Idaho income tax act, sections 63-3039, 63-3042, 63-3043 through 63-3064, Idaho Code,

shall apply and be available to the commission for enforcement and collection under sections 63-701 through 63-710, Idaho Code, and such sections shall, for this purpose, be considered part of sections 63-701 through 63-710, Idaho Code. Wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under sections 63-701 through 63-710, Idaho Code, be described as tax relief liens and proceedings. In connection with such sections, a deficiency shall consist of any amount erroneously claimed by or paid to a claimant under sections 63-701 through 63-710, Idaho Code.

The staff issued a deficiency notice to the petitioner and the petitioner's representative submitted a written appeal and a fully executed Power of Attorney Form. The representative said she had examined the petitioner's application and noted that only Medicare premiums had been subtracted as medical expenses. She explained that the petitioner's wife had the cost of room and board at the Community Restorium. The representative went on to say: "[Redacted] was evaluated by a doctor and it was determined and recommended that she live in a level two care center." She questioned the expense for this care as a reduction of household income. She asked the staff to reconsider the audit results.

The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review, and the petitioner and his representative were sent a letter advising the petitioner of his appeal rights. In that letter, the medical expense deduction was explained including the requirement for written confirmation of the doctor's orders and verification of qualifying medical expenses.

The representative wrote back asking for clarification of the time frame for submitting additional information and the Tax Appeals Specialist telephoned the representative. The ensuing conversation concluded with the representative's promise to submit new information justifying the deduction of additional medical expenses from the petitioner's household income within 30 days.

Thirty days passed without further contact from the petitioner or his representative. The Tax Appeals Specialist telephoned the representative. The representative said she had nothing to submit and asked the Tax Commission to issue its decision based on the contents of the petitioner's file and the record as it stands.

Idaho Code § 63-701 uses a series of definitions to state the requirements for qualifying for property tax reduction benefits. The benefit amount is determined by the total income received by the applicant and the members of the applicant's household during the prior year.

The 2001 Idaho Code § 63-701 stated in pertinent parts:

(5) **"Income" means the sum of federal adjusted gross income as defined in the internal revenue code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted** gross income, alimony, support money, income from inheritances, nontaxable strike benefits, the **nontaxable amount of any individual retirement account, pension** or annuity, (including railroad retirement benefits, all payments received under the federal social security act, state unemployment insurance laws, and veterans disability pensions and compensation, excluding rollovers as provided in section 402 or 403 of the internal revenue code), nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities, worker's compensation and the gross amount of loss of earnings insurance. It does not include capital gains, gifts from nongovernmental sources or inheritances. **To the extent not reimbursed, cost of medical care as defined in section 213(d) of the internal revenue code, incurred by the household may be deducted from income.** "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse, provided however, that the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant does not file a federal tax

return the claimant's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant filed a federal tax return. (Emphasis added.)

The petitioner's application for the property tax reduction benefit for 2001 failed to report income received from his wife's retirement account with the Public Employee Retirement System of Idaho. When that additional income is added to the income reported in the application, the 2001 benefit amount must be reduced. The petitioner has submitted nothing that would establish he is entitled to a reduction of that income because of additional medical expenses.

Idaho statute allows for the recovery of benefits paid in error. The Tax Commission finds the deficiency determination is appropriate.

WHEREFORE, the Notice of Deficiency Determination dated May 3, 2002, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pays the following property tax benefit reimbursement, and interest.

BENEFIT	INTEREST	TOTAL
\$270	\$5	\$275

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2002, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

[REDACTED]
